TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1900.

No. 223.

A. L. GUSMAN, IN BEHALF OF SAMUEL WRIGHT, APPELLANT,

vs.

L. H. MARRERO, SHERIFF OF THE PARISH OF JEFFERSON, STATE OF LOUISIANA.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

FILED MARCH 13, 1900.

(17,670.)

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., NOVEMBER 13, 1900.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Eastern District of Louisiana, New Orleans Division.

A. L. GUSMAN, Appearing in Behalf of SAMUEL Wright, Appellant,
versus
L. H. MARRERO, Sheriff of the Parish of Jefferson, State of Louisiana, Appellee.
No. 12849.

Mr. A. L. Gusman, appearing in behalf of Samuel Wright, appellant.

Robert J. Perkins, Esq., att'y for L. H. Marrero, sheriff of the parish of Jefferson, La., appellee.

Appeal from the circuit court of the United States for the eastern district of Louisiana, New Orleans division, to the Supreme Court of the United States of America, returnable within thirty (30) days from the 5th day of March, A. D. 1900, at the city of Washington, District of Columbia.

Transcript of Appeal.

United States Circuit Court, Eastern District of Louisiana.

A. L. GUSMAN, in Behalf of NATHAN WRIGHT,
vs.
L. H. MARRERO.
No. 12849.

Petition. Filed Jan. 20, 1900.

To the hon. 5th U. S. circuit court, holding sessions in and for the eastern district, State of Louisiana:

The petition of A. L. Gusman, of the parish of Orleans, appearing in behalf of Nathan Wright, of the parish of Jefferson, respectfully shows that the said Wright is now illegally and wrongfully held in custody by Lucien H. Marrero, sheriff of said parish of Jefferson, under a conviction, so called, of criminal assault with intent to commit rape, inflicted by the 21st judicial district court of the State of Louisiana, at a session recently held in said parish of Jefferson; that said Wright has also been sentenced to death by said court, and that said Marrero, sheriff, proposes, under said sentence and an order of execution lately received by him from Murphy J. Foster, governor, so called, of the State of Louisiana, to hang said Wright on Feb'y 9th, 1900, until dead, and will do so unless restrained therefrom by this hon. court. Petitioner further shows that said conviction was obtained and sentence passed without due process of law, in direct violation of the 14th amendment of the Constitution of these United States; that the grand jury that indicted Wright consisted of only twelve members, whilst the fundamental law of the

State, the constitution of 1879, imperatively requires that the grand jury shall consist of sixteen members, and that the assent of at least thirteen of these members shall be secured for the presentation
2 of a true bill; shows additionally that these fatal departures from an indispensable due process of law arose from the very erroneous beliefs of the hon. judge of said district court and of Gov. Foster that a so-called constitution of 1898 is the fundamental law of the State, and not that of 1879; that they erred, and that the latter is the real and valid constitution of Louisiana, petitioner in proof presents the following counts and pleas:

Count No. 1. That the constitution of 1879 being in 1896 unquestionably the fundamental law of Louisiana and the legislature its creature, the latter was without power or authority to alter, change, or add to or subtract from this fundamental law except as authorized by it to do so; hence act No. 52 of 1896, generally known as the constitutional convention law, that goes far beyond the limits of legislative authority, is *ultra vires* and absolutely null and void, and everything done under it equally null and void.

Count No. 2. That the constitution of 1879 having solely and exclusively entrusted to the legislature the right, power, and authority of deciding whether the constitution should be altered, amended, or revised, that body was without the right, power, or authority to delegate to the people of the State by said act No. 52 of 1896 the right, power, and authority of deciding this question.

Count No. 3. That the constitution of 1879 having conferred upon the legislature the sole and exclusive right, power, and authority to alter, amend, and revise said constitution, subject to a subsequent ratification of its work by the people, the legislature was without the right, power, or authority to confide and delegate through said act No. 52 of 1896, said work to a constitutional convention.

Count No. 4. That the people of Louisiana, having by the formulation of the constitution of 1879 and its subsequent enactment and ratification as effectively tied their own hands on the subject of alterations, changes, amendments, and revisions as they did those of the legislature, were consequently without the power or
3 authority to call a convention, as proposed by said act 52.

Count No. 5. That the so-called vote of the people of Louisiana in favor of a new constitution was not indicative of the sovereign will of the people, since the sovereignty of the people of a State is vested in the voters thereof, as declared in the fundemental law—no more, no less; and said election, having nevertheless been held under two unconstitutional acts, Nos. 89 and 137 of 1896 (that reduced the electorate of the State from 294,432 registered voters to a statutory electorate of only 87,240), was not, in any sense, an expression of sovereignty, and therefore of no force, effect, or validity.

Count No. 6. Said acts Nos. 89 and 137 of 1896 are unconstitutional and null and void, because:

"A." They impose new requirements and additional qualifications, which can only be done by constitutional amendments and a subsequent ratification by the people.

"B." Because they are bills of attainder, which the State is inhibited by the Federal Constitution from passing.

"C." Because they are also *ex post facto* laws, which the State is likewise inhibited from passing.

"D." Because they violate those additional guarantees for the protection of vested rights provided by the 14th amendment.

"E." Because the U. S. Supreme Court has ruled that "suffrage once granted will be protected. He who has it can only be deprived of it by due process of law."

"F." Because the two acts make a sweeping exemption from the new requirements and additional qualifications based upon wealth and money. Such classification is arbitrary, unreasonable, and unconstitutional. The equal protection guaranteed by the 14th amendment forbids it.

Count No. 8. The constitution of 1898 is additionally null and void because it lacks the essential and indespensable requi-
4 site of a subsequent ratification by the people of the State, in order to comply with the provision of the Federal Constitution exacting from every State of the Union a republican form of government.

Petitioner further shows in behalf of said Wright that the aforesaid insurrectionary, revolutionary, usurpative, and unconstitutional proceedings compel him to go outside of the State courts, and to appeal to this hon. court for protection against an ordered extrajudicial murder, under the well-established maxim of constitutional law that State courts are not competent to pass upon the validity of the constitution under which they themselves exist and from which they derive all their powers.

Wherefore, the above duly considered, petitioner prays for citation and service of petition upon the aforesaid Lucien H. Marrero, sheriff of the parish of Jefferson, State of Louisiana, commanding him to show cause, if any he has, why the said Nathan Wright, now in his illegal and wrongful custody, should not be by him set at liberty.

Petitioner further prays that, after all necessary services, legal delays, and due trial, there be judgment by this hon. court mandamusing and ordering the said Lucien H. Marrero, sheriff of the parish of Jefferson, to restore Nathan Wright to that liberty he has been wrongfully depriving him of.

Finally, petitioner prays for such general and special relief for said Wright as the law and evidence may on trial show him entitled to receive.

Respectfully submitted.

(Signed) A. L. GUSMAN.

Before me, the undersigned authority, personally appeared A. L. Gusman, to me known, who, being first by me duly sworn, says that the above facts and allegations are true and correct; that the aforesaid Wright has no adequate legal remedy in the State courts of Louisiana for the denial of due process of law, of which he is the

victim, and that his only avenue of escape from an uncon-
5 stitutional sentence of death is an appeal to this hon. court for justice and protection.

(Signed) A. L. GUSMAN.

This done and subscribed in my office, city of New Orleans, this 2nd day of January, A. D. 1900.

[SEAL.] (Signed) W. B. BARNETT, *Not. Pub.*

Before me the said A. L. Gusman also swears and says that Nathan Wright is penn*y*less and homeless, and is therefore entitled under the law to an appearance and defense of his life and liberty in this hon. court free of all costs and securities.

(Signed) A. L. GUSMAN.

Thus done and sworn before me in my office, city of New Orleans, State of Louisiana, on this 22nd day of January, A. D. 1900.

[SEAL.] W. B. BARNETT, *Not. Pub.*

Citation.

UNITED STATES OF AMERICA, }
Eastern District of Louisiana. }

Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana, New Orleans Division.

A. L. GUSMAN, Appearing in Behalf of NATHAN WRIGHT, }
vs. } No. 12849.
L. H. MARRERO, Sheriff of Parish of Jefferson, *et als.* }

The President of the United States of America to Lucien H. Marrero, sheriff of the parish of Jefferson, State of Louisiana, Greeting:

You are hereby summoned to comply with the demand contained in the petition, of which a copy accompanies this citation, or to deliver your answer to the same in the office of the clerk of the circuit
6 court of the United States, fifth circuit and eastern district of Louisiana, in the city of New Orleans, in ten days after the service hereof, which delay is increased one day for every ten miles your place of residence is distant from New Orleans, the place where the court is held.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, at the city of New Orleans, this 29 day of January, A. D. one thousand nine hundred, and the Independence of the United States of America the 124th year.

Teste:

[SEAL.] (Signed) E. R. HUNT, *Clerk*,
By H. J. CARTER,
Deputy Clerk.

(Endorsed:) No. 12849. United States circuit co[illegible] c, fifth circuit, eastern district of Louisiana. A. L. Gusman, appearing in behalf of Nathan Wright, *vs.* L. H. Marrero, sheriff parish of Jefferson. (Marshal's return on back:) Received by U. S. marshal, New Orleans, La., January 29th, 1900, and on the same day, month, and year I served copy hereof and accompanying petition on Lucian H. Marrero, sheriff of the parish of Jefferson, Louisiana, by leaving the same at his office, in said parish, in the hands of his deputy, Eph. Tonner, the said sheriff being absent from the office at the time of said service. (Signed) Chas. Fontelieu, U. S. marshal, by J. H. Patin, deputy U. S. marshal.

7 *Exception and Answer. Filed January* 31, 1900.

United States Circuit Court, Eastern District of Louisiana.

A. L. GUSMAN, Appearing in Behalf of NATHAN WRIGHT,
v.
L. H. MARRERO, Sheriff of the Parish of Jefferson. } No. 12849.

Now into this hon. court comes L. H. Marrero, sheriff of the parish of Jefferson, made defendant in the above numbered and entitled cause, who excepts to plaintiff's petition on the ground that this honorable court has no jurisdiction in the case; and, further excepting, defendant urges that plaintiff's petition discloses no cause of action.

In the event that defendant's exception be overruled, and only then, defendant answers that he holds no prisoner named Martin Wright nor Nathan Wright, as alleged in plaintiff's petition, but that a man named Sam. Wright, now in his custody as sheriff of the parish of Jefferson, was tried and convicted on Monday, the 11th day of December, 1899, before the honorable the twenty-first judicial district court for the parish of Jefferson, presided over by Hon. Emile Rost, judge, of the crime of "entering a dwelling-house in the nighttime, armed with a dangerous weapon, and, having so entered, having made an assault upon the body of a girl therein residing with the felonious intent to commit rape."

Further answering, defendant alleges that, pursuant to a subsequent order of the court aforesaid sentencing him to be hanged, the said Sam. Wright was committed to custody of defendant to await a day to be fixed by his excellency the governor of Louisiana for the execution of said Wright.

8 Defendant alleges that Friday, February the ninth, has been fixed by the governor of Louisiana for the execution of the orders of the said court.

Whereupon defendant prays that plaintiff's petition be dismissed.

(Signed) ROBERT J. PERKINS,
Att'y for L. H. Marrero, Sheriff — the Parish of Jefferson.

Order Fixing Exceptions.

Extract from the Minutes.

November Term, 1899.

NEW ORLEANS, WEDNESDAY, *January* 31, 1900.

Court met pursuant to adjournment.
Present: Hon. Charles Parlange, district judge.

A. L. GUSMAN, in Behalf of NATHAN WRIGHT,
vs.
L. H. MARRERO, Sheriff, &c. } No. 12849.

On motion of R. J. Perkins, attorney for the defendant, it is ordered that the exceptions filed by defendant to the petition herein be fixed for trial on Friday, February 2, 1900, at 11 o'clock a. m., and that counsel for petitioner be notified hereof.

Feb'y 2, 1900.—(Case continued to Feb'y 3, 1900.)

Hearing and Judgment Sustaining Exceptions.

Extract from the Minutes.

November Term, 1899.

NEW ORLEANS, SATURDAY, *February* 3, 1900.

Court met pursuant to adjournment.
Present: Hon. Charles Parlange, district judge.

9 A. L. GUSMAN, on Behalf of NATHAN WRIGHT,
vs.
L. H. MARRERO, Sheriff of the Parish of Jefferson. } No. 12849.

This cause came on to be heard this day upon the exceptions of jurisdiction and no cause of action filed by the defendant—R. J. Perkins appearing for the exceptor, A. L. Gusman for Nathan Wright—and was argued by A. L. Gusman and by R. J. Perkins, attorney for the defendant, and submitted.

Whereupon and on consideration thereof it is ordered, adjudged, and decreed that both the exceptions be sustained and the petition dismissed.

Motion for New Trial. Filed Feb. 5, 1900.

STATE OF LOUISIANA:

Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana.

A. L. GUSMAN, in Behalf of SAMUEL WRIGHT,
vs.
L. H. MARRERO, Sheriff. } No. 12849.

And now comes A. L. Gusman and moves this hon. court for a new trial on the following grounds:

First. That the court erred gr-ev*i*ously and to Wright's prejudice and injury in holding that this is a mandamus suit. No writ is needed, none was asked, and the words "mandamus" and "writ" are nowhere to be found in the petition. No perpetuation of the writ of mandamus that has no existence is either asked or denied. The petition and prayer shows that this is simply an ordinary action. The summons to the defendant Marrero evidences the same thing, and his exceptions and answer are additional proofs of this fact.

Second. The court also erred gr-ev*i*ously when it refused to allow a trial of the merits of the question, since this was necessary in order to show whether or not Sheriff Marrero, in holding Wright in forcible custody under an assumption of governmental authority, was not invading Wright's constitutional rights and guarantees without due process of law.

Third. The court also erred gr-ev*i*ously and injuriously in ruling that appearer's contentions as to jury trials and juries are untenable, on the grounds that amendments 4, 5, 6, 7 of the Federal Constitution do not apply to State courts, as held by the U. S. Sup. Court in the 110 U. S. Supreme Court Report in a California case, the said court since then having held that they do.

4. That this hon. court furthermore gr-ev*i*ously and injuriously erred in holding that appearer's eighth count involves a political question over which Congress alone has jurisdiction. This was once true, but it is so no longer, for Congress a number of years ago settled the question affirmatively, and it is now the duty of this court to enforce this decision just as much as it is its duty to enforce the provisions of the statutes of Congress.

5. The court additionally erred in holding that Wright had no valid right of action, since a resort to mandamus proceedings was not the proper remedy. As no such resort was ever made the decision is clearly erroneous.

Respectfully submitted.

(Signed) A. L. GUSMAN.

11 *Order Fixing Motion for New Trial.*

Extract from the Minutes.

November Term, 1899.

NEW ORLEANS, TUESDAY, *February* 6, 1900.

Court met pursuant to adjournment.
Present: Hon. Charles Parlange, district judge.

A. L. GUSMAN, in Behalf of N. WRIGHT,
vs.
L. H. MARRERO, Sheriff. } No. 12849.

It is ordered by the court that the motion, this day presented, by petitioner for a new trial be fixed for hearing on tomorrow at 10.30 a. m., and that counsel for both parties be notified forthwith.

Order Refusing New Trial.

Extract from the Minutes.

November Term, 1899.

NEW ORLEANS, WEDNESDAY, *February* 7, 1900.

Court met pursuant to adjournment.
Present: Hon. Charles Parlange, district judge.

A. L. GUSMAN, in Behalf of NATHAN WRIGHT,
vs.
L. H. MARRERO, Sheriff, *et al.* } No. 12849.

The motion for a new trial herein filed by the petitioner came on this day to be heard—present, A. L. Gusman, for petitioner; R. J. Perkins, for defendant—and was submitted by both parties without argument.
On consideration thereof it is ordered that a new trial be refused.

12 *Judgment.*

Extract from Judgment Book.

Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana, New Orleans Division, November Term, 1899.

NEW ORLEANS, SATURDAY, *February* 3, 1900.

Court met pursuant to adjournment.

Present: Hon. Charles Parlange, district judge.

A. L. GUSMAN, in Behalf of NATHAN WRIGHT,
vs.
L. H. MARRERO, Sheriff of the Parish of Jefferson. } 12849.

This cause came on to be heard upon the exceptions of jurisdiction and no cause of action filed by the defendant—R. J. Perkins appearing for exceptor, A. L. Gusman for Nathan Wright—and was argued by A. L. Gusman and by R. J. Perkins, att'y for the defendant, and submitted.

Whereupon and on consideration thereof it is ordered, adjudged, and decreed that both of the exceptions be sustained and the petition dismissed.

Judgment rendered February 3, 1900.

Judgment signed February 8, 1900.

(Signed) CHARLES PARLANGE, *Judge.*

13 *Petition and Order for Appeal. Filed February 9th,* 1900.

U. S. Circuit Court, Eastern District of Louisiana.

A. L. GUSMAN, Appearing in Behalf of SAMUEL Wright,
vs.
LUCIEN H. MARRERO, Sheriff of the Parish of Jefferson, State of Louisiana. } No. 12849.

And now comes A. L. Gusman, appearing in behalf of Samuel Wright, and respectfully prays this hon. court for appeal to the United States Supreme Court, returnable according to law.

In behalf of this application appearer presents the following assignment of errors:

First. That the court erred in holding that this is a mandamus suit. No writ of mandamus is needed and none was asked.

The words "mandamus" and writ are nowhere to be found in the petition. No perpetuation of any writ is asked or is desirable. This is simply an ordinary action, this court being the court of original jurisdiction, the State courts being incompetent to pass upon the controlling issue of this case—the validity of the constitution of 1898.

Second. The court erred in refusing to allow a trial of the merits of the case, since such a trial was necessary in order to show whether or not the sheriff, in holding Wright in forcible custody under an assumption of governmental authority, was or was not invading Wright's constitutional rights and guarantees under the 14th amendment.

Third. That the court also erred in holding that appearer's contentions as to juries and jurors *was* erroneous, because amendments 4, 5, 6, and 7 of the Federal Constitution do not apply to
14 State courts, as decided by the U. S Supreme Court in 110 U. S. Reports, the said court having decided since that decision was rendered that they do apply to State courts.

Fourth. That the court also erred in holding that the 8th count of the petition involves a political question, over which Congress alone has jurisdiction.

This was once true, but it is so no longer, Congress having a few years ago settled the question affirmatively and in the manner favored by the court, and it is now therefore the duty of this court to enforce this settlement as much as it is its duty to enforce the provisions of the statutes of Congress.

Fifth. The court additionally erred in holding that Wright had no right of action under the mandamus proceedings, the petition showing an absolute absence of such proceedings.

Respectfully submitted.

(Signed) A. L. GUSMAN.

The foregoing duly considered, an appeal to the Hon. United States Supreme Court is hereby granted the applicant, returnable according to law, upon petitioner giving bond in the sum — fifty dollars.

New Orleans, La., February 9th, 1900.

(Signed) CHARLES PARLANGE, *U. S. Judge.*

Bond for Appeal. Filed February 19th, 1900.

UNITED STATES OF AMERICA:

Know all men by these presents that we, A. L. Gusman, of the parish of Orleans, State of Louisiana, acting in behalf of Samuel Wright, of the parish of Jefferson, State of Louisiana, as prin-
15 cipal, and James Lewis, of the parish of Orleans, State of Louisiana, as surety, are held and firmly bound, jointly and severally, unto Lucien H. Marrero, sheriff of the parish of Jefferson, State of Louisiana, in the sum of fifty (50) dollars, lawful money of the United States of America, to be paid to the said Lucien H. Marrero, sheriff of the parish of Jefferson, State of Louisiana, and his heirs, executors, administrators, and assigns; for which payment, well and truly to be made, we bind ourselves and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated the — day of the month of February, in the year of our Lord nineteen hundred (1900).

Whereas the said principal, A. L. Gusman, having heretofore, to wit, on the 9th day of February, 1900, taken an appeal to the Supreme Court of the United States from and to reverse the decree rendered on the third day of February, 1900, by the circuit court of the United States for the fifth circuit, holding session in and for the district of Louisiana, in the suit of A. L. Gusman, acting in behalf of Samuel Wright, *vs.* Lucien H. Marrero, sheriff of the parish of Jefferson, State of Louisiana, being No. 12849 of the docket thereof:

Now the condition of the above obligation is that if the above-bounden A. L. Gusman, plaintiff and appellant, shall prosecute the said appeal to effect and shall answer all damages and costs if he shall fail to make good his plea, then this obligation shall be void; otherwise to remain in full force and virtue.

(Signed) A. L. GUSMAN.
JAMES LEWIS.

Signed, sealed, and delivered in the presence of—
—— ——.

This bond approved February 19th, 1900.
CHARLES PARLANGE, *U. S. Judge.*

16 UNITED STATES OF AMERICA, } ss:
District of Louisiana, }

Personally appeared James Lewis, who, being duly sworn, deposes and says that he is the surety on the within bond; that he resides in the city of New Orleans, State of Louisiana, and is worth the full sum of fifty ($50.00) dollars over and above all his debts and liabilities and property exempt from execution.

(Signed) JAMES LEWIS.

Subscribed and sworn — before me this 19th day of February, 1900.

(Signed) E. M. FULLER,
Deputy Clerk, U. S. Circuit Court, Eastern District of Louisiana.

(Endorsed:) No. 12849. United States circuit court, district of Louisiana. A. L. Gusman, in behalf of Samuel Wright, *vs.* L. H. Marrero, sheriff, parish of Jefferson. Bond for appeal. Filed February 19th, 1900. (Signed) H. J. Carter, d'y clerk.

Bond for Writ of Error. Filed February 19th, 1900.

Know all men by these presents that we, A. L. Gusman, of the parish of Orleans, State of Louisiana, acting in behalf of Samuel Wright, of the parish of Jefferson, State of Louisiana, as principal, and James Lewis, of the parish of Orleans, as surety, are held and firmly bound unto Lucien H. Marrero, sheriff of the parish of Jeffer-

son, State of Louisiana, in the full and just sum of fifty (50) dollars, to be paid to the said Lucien H. Marrero, sheriff of the parish of Jefferson, State of Louisiana, and his certain attorneys, executors, administrators, or assigns; to which payment, well and truly
17 to be made, we bind ourselves, our heirs, executors, administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 19th day of February, in the year of our Lord one thousand nine hundred (1900).

Whereas lately, at a circuit — of the United States, fifth judicial circuit, holding session in and for the eastern district of Louisiana, in the city of New Orleans, in a suit pending in said circuit court, wherein A. L. Gusman, of the parish of Orleans, is plaintiff and Lucien H. Marrero, sheriff of the parish of Jefferson, defendant, judgment was rendered against the said plaintiff, A. L. Gusman, and in favor of the said Marrero, sheriff, the defendant; and the said A. L. Gusman, plaintiff, having obtained a writ of error and filed a copy -hereof in the clerk's office of the said circuit court, to reverse the judgment in the aforesaid suit, and a citation directed to the said Lucien H. Marrero, sheriff, citing and admonishing the said Marrero to be and appear at the Supreme Court of the United States, to be holden at Washington, District of Columbia, within thirty days from Feb. 9, 1900, having been issued and served:

Now, the condition of the above obligation is such that if the said A. L. Gusman, plaintiff, shall prosecute this writ to effect, and answer all damages and cost if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

(Signed) A. L. GUSMAN.
JAMES LEWIS.

Sealed and delivered in the presence of—
—— ——.

This bond approved February 19th, 1900.
(Signed) CHARLES PARLANGE, *U. S. Judge.*

18 UNITED STATES OF AMERICA, }
Eastern District of Louisiana, } *ss:*

Personally appeared James Lewis, who, being duly sworn, deposes and says that he is the surety on the within bond; that he resides in the city of New Orleans, State of Louisiana, and is worth the full sum of fifty ($50.00) dollars over and above all his debts and liabilities and property exempt from execution.

(Signed) JAMES LEWIS.

Subscribed and sworn — before me this 19th day of February, 1900.

(Signed) E. M. FULLER,
Deputy Clerk, United States Circuit Court,
Eastern District of Louisiana.

(Endorsed:) No. 12849. United States circuit court, eastern district of Louisiana. A. L. Gusman, in behalf of Samuel Wright, *vs.*

L. H. Marrero, — parish of Jefferson. Bond for writ of error. Filed February 19th, 1900. (Signed) H. J. Carter, d'y clerk.

19 THE UNITED STATES OF AMERICA:

Circuit Court of the United States, Eastern District of Louisiana.

The President of the United States to L. H. Marrero, sheriff of the parish of Jefferson, State of Louisiana, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington, within 30 days from date hereof, pursuant to a motion and order for appeal filed in the clerk's office of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, wherein A. L. Gusman, in behalf of Samuel Wright, is plaintiff and appellant and you are defendant and appellee, to show cause, if any there be, why the judgment rendered against the said A. L. Gusman, as in said motion mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, this 5 day of March, in the year of our Lord one thousand nine hundred.

CHARLES PARLANGE, *Judge.*

20 [Endorsed:] E. United States circuit court, eastern district of Louisiana. No. 12849. A. L. Gusman, in behalf of Samuel Wright, plaintiff and appellant, *vs.* L. H. Marrero, sheriff of the parish of Jefferson, Louisiana. Citation.

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 5, 1900.

On this 6th day of March, 1900, before the undersigned authority personally came T. I. Galbreth, deputy United States marshal for the eastern district of Louisiana, who, being duly sworn, deposes and says that on the 6th day of March, 1900, he served this writ on L. H. Mar-ero, sheriff of the parish of Jefferson, State of Louisiana, by handing the same to him in person.

T. I. GALBRETH,
D'y U. S. Marshal.

Sworn to and subscribed before me on this 6th day of March, 1900.

H. J. CARTER,
U. S. Commissioner.

21 UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana.

CLERK'S OFFICE.

I, Edward R. Hunt, clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, do hereby certify that the foregoing 20 pages contain and form a full, complete, true and perfect transcript of the record and proceedings had, together with all the evidence adduced, on the trial of the case of A. L. Gusman, in behalf of Samuel Wright, *versus* L. H. Marrero, sheriff of the parish of Jefferson, Louisiana, No. 12849 of the docket of the said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 6 day of March, A. D. 1900.

{ Seal U. S. Circuit Court for the 5th Circuit & Eastern District of La. }

E. R. HUNT, *Clerk.*

I, Charles Parlange, United States judge for the eastern district of Louisiana, do certify that Edward R. Hunt, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, was at the time of signing said certificate and is now the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of New Orleans, in said district, this 6 day of March, A. D 1900.

CHARLES PARLANGE, *Judge.*

Endorsed on cover: File No., 17,670. E. Louisiana C. C. U. S. Term No., 223. A. L. Gusman, in behalf of Samuel Wright, appellant, *vs.* L. H. Marrero, sheriff of the parish of Jefferson, State of Louisiana. Filed March 13th, 1900.

No. 223.

Petition to reinstate.

SUPREME COURT, U.S.
FILED
NOV 5 1900
JAMES H. McKENNEY,
Clerk.

Filed Nov. 5, 1900.

Supreme Court of the United States.

OCTOBER TERM, 1900.

No. 223.

The petition of Samuel Wright, appellant, by his attorneys, A. L. Gusman, A. A. Birney and Henry F. Woodard, respectfully shows that the above-entitled cause, was, on the 29th day of October, 1900, dismissed from the files of this Court for failure to print the record and pay Clerk's costs. Your petitioner now prays the Court that said cause may be reinstated on the docket of this Honorable Court because:

1. Your petitioner has paid the $55.00 Clerk's costs, as is evidenced by the annexed receipt of the Honorable Clerk of this Court, which is prayed to be taken as a part of this petition.

2. His attorney, A. L. Gusman, of New Orleans, was prevented from arriving in the City of Washington and paying the costs aforesaid because of the missing of railway connections at Hamlet, South Carolina.

Wherefore, petitioner earnestly and respectfully prays that said cause may be reinstated on the calendar of this Court.

Respectfully submitted,

SAMUEL WRIGHT, *per*
A. L. GUSMAN, *Attorney.*

A. L. GUSMAN,
A. A. BIRNEY,
HENRY F. WOODARD,
Attorneys for Petitioner.

OFFICE OF THE CLERK,
SUPREME COURT OF THE UNITED STATES,
WASHINGTON, D. C.,

November 2d, 1900.

Received of A. L. Gusman Fifty-five dollars as deposit in case of A. L. Gusman on behalf of Samuel Wright Appt vs L. H. Marrero Sheriff &c No 223 Oct. Term 1900.

JAS. H. MCKENNEY
Clerk Sup. Ct. U. S.
per H. C. M.

DISTRICT OF COLUMBIA, *ss:*

Personally appeared A. L. Gusman, who, upon oath, deposes and says, that he left the City of New Orleans on the evening of October 27, en route to the City of Washington, expecting to arrive at said city on, to wit, 8.40 A. M. Monday morning, October 29; that, by reason of affiant's having missed railway connection, he was delayed and did not reach Washington until four o'clock of the same day. That since affiant arrived at Washington he has been informed by the Clerk of the Court that the case of Samuel Wright, Appellant *vs.* L. H. Marrero, Sheriff, etc., was dismissed by order of this Court for failure to pay Clerk's costs and to print the record; that he has now paid the Clerk's costs, as will appear by the receipt attached to the foregoing petition.

A. L. GUSMAN.

Subscribed and sworn to before me this 5th day of November, 1900.

GEORGE E. TRALLES,
[NOTARIAL SEAL.] *Notary Public, D. C.*